

**ENTERED**

September 14, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
—BROWNSVILLE DIVISION—**

ERNESTO BENAVIDES, JR.,  
Petitioner,

VS.

LORIE DAVIS,  
Respondent.

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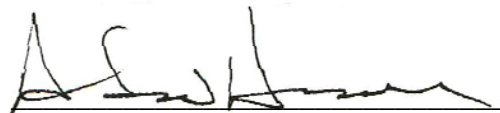
CIVIL NO. B-15-181

**ORDER**

On August 5, 2016, the United States Magistrate Judge filed a Report and Recommendation (Doc. No. 27). Petitioner has objected to said Report and Recommendation (Doc. No. 31).

Having considered *de novo* the Magistrate Judge's Report and Recommendation and the issues raised by Petitioner's objections, the Court orders that the Magistrate Judge's Report and Recommendation is hereby adopted. Therefore, the motion to dismiss (Doc. No. 19) filed by Respondent Lori Davis is granted and Ernesto Benavides's petition for writ of *habeas corpus* by a person in state custody pursuant to 28 U.S.C. § 2254 (Doc. No. 1) is dismissed as untimely filed. Alternatively, this Court denies the Petitioner the relief he seeks on the merits of the § 2254 claims. The issuance of a Certificate of Appealability is also denied.

Signed this 14<sup>th</sup> day of September, 2016.



Andrew S. Hanen  
United States District Judge